

# **Government of the District of Columbia**

## **ZONING COMMISSION**



### **ZONING COMMISSION ORDER NO. 668-H**

**Case No. 01-34MM/00-35TE**

**(Modification to the Planned Unit Development at 500 5th Street, N.W.)**

**February 11, 2002**

On November 19, 2001, the National Academy of Sciences ("NAS") filed an application for a minor modification to Zoning Commission Order Nos. 668 and 668-A through 668-G authorizing a planned unit development ("PUD") consisting of a mixed-use commercial building for premises at 500 5<sup>th</sup> Street, N.W. The proposed modification would allow the use of the dedicated retail space by an interactive science museum, as an alternative to all or a portion of the retail requirement of the previously approved PUD. NAS requested that the application be considered through use of the Zoning Commission's Consent Calendar procedure of 11 DCMR § 3030.

Pursuant to notice, the Zoning Commission for the District of Columbia held a public meeting on February 11, 2002. At the meeting, the Zoning Commission voted to consider the application under its Consent Calendar process (11 DCMR § 3030), thereby eliminating the need for a hearing. Following discussion, the Commission approved NAS' application for a minor modification to the previously approved PUD.

### **FINDINGS OF FACT**

1. By Zoning Commission Order No. 668, dated July 9, 1990, the Zoning Commission for the District of Columbia approved the application of 488 Associates Limited Partnership, the Salvation Army, the Fraternal Order of Police, and John W. and Vinard Paris (collectively, the "applicant") for a consolidated review and approval of a planned unit development (PUD) and related map amendment from SP-2 to C-3-C for lots 15-19, 24, 25, and 821-823, and a closed public alley in Square 488, located at 500 5th Street, N.W. Since July 9, 1990, the Zoning Commission has granted the applicant several extensions of its original order such that the current expiration date of the PUD under Z.C. Order No. 668-G is December 9, 2005, with construction to begin no later than December 9, 2006.
2. In addition to previous requests to extend the PUD, the applicant has requested two previous modifications of the approved PUD. In 1994, the applicant requested a modification of the approved existing PUD and a map amendment to include, as alternative

development, lots 833 and 842 at the northern end of Square 488, unzoned District of Columbia property developed with a fire station.

3. By Z.C. Order No. 668-D, dated November 14, 1994, the Zoning Commission approved the modification to the PUD and the map amendment to C-3-C for lots 833 and 842 in Square 488. Z.C. Order No. 668-D provided for an office/retail building with a gross floor area (including the fire station) of 448,525 square feet, an FAR of 7.64, height of 120 feet, and 212 off-street parking spaces with a potential for approximately 313 parking spaces through a stacked parking scheme, and a minimum of ten bicycle parking spaces or, in the alternative, to proceed under the original PUD approval contained in previous Z.C. Order Nos. 668, 668-A, 668-B, and 668-C.
4. In 1999, the applicant requested a minor modification of the approved PUD to allow both parking and office space or parking only on the concourse or cellar level. Finding that the requested modification was a “minor modification” by Z.C. Order No. 668-F, dated April 12, 1999, the Zoning Commission approved the minor modification.
5. On November 19, 2001, NAS filed a written application for an additional minor modification to the previously approved and modified PUD to allow the use of the dedicated retail space by an interactive science museum as an alternative to all or a portion of the retail requirement of the PUD, as required by 11 DCMR § 3030.4. NAS has not requested any other changes to the approved PUD in this request for modification. NAS requested that the Zoning Commission consider the application by using its Consent Calendar procedure. In support of the application, NAS noted that the retail component of the PUD comprised only two percent (2%) of the project<sup>1</sup> and that the museum use would further the Zoning Commission’s goal of generating additional pedestrian traffic in the area.
6. As required by 11 DCMR § 3030.6, the application was served on the parties to the prior proceedings: ANC 6A, the Committee of 100, and the D.C. Preservation League (“DCPL”).
7. DCPL submitted a letter in which it stated that it supported the requested relief conditioned upon: (1) public access to the museum being provided directly from the street, not from the lobby of the office building; (2) the museum’s hours of operation being similar to retail hours; (3) the museum space having windows comparable to a retail operation and used for displays and/or visual access to the museum or store space; and (4) review of proposed signage to ensure appropriate design. ANC 6A submitted a letter in which it stated that it supported the requested modification conditioned upon the requirement that, in the event the space in question was not used for the interactive science museum, it would revert back to retail. Additionally, both DCPL and ANC 6A supported consideration of the matter as a Consent Calendar item.

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<sup>1</sup> Less than two percent (2%) of the project including lots 833 and 842.

8. The Committee of 100 inquired at the Office of Zoning about the status of the application and voiced its doubts about supporting the proposed modification, but did not submit a written statement of its position on the application before the Commission considered the application for a minor modification at its regular monthly meeting on February 11, 2002.
9. The Office of Planning ("OP") recommended approval of the application as a Consent Calendar item. In its report, OP concluded that an interactive science museum could make just as strong a contribution to attracting people to this section of E Street, N.W., as the retail space required by the PUD. The Office of Planning further recommended that the Zoning Commission adopt the conditions requested by DCPL.
10. In its report, OP stated that the requested minor modification will further District of Columbia development objectives for the subject site in the area near the Judiciary Square Metro Station, and the proposed museum use will facilitate the use of public transportation and extend the retail spine of E Street, N.W. closer to the Judiciary Square Metro. OP also stated that the museum will also encourage additional pedestrian activity along E Street, N.W., attract new visitors to the area, and support other small and specialized museums in the vicinity, such as the National Building Museum and the Spy Museum, as well as restaurants and retail businesses in the surrounding area.
11. On February 11, 2002, at its regular monthly meeting, the Commission agreed to consider the applicant's request for a minor modification to allow an interactive science museum as an alternative to the retail component of the PUD.
12. At the public meeting, OP's John Fondersmith expressed OP's belief that adding an interactive science museum at this location would further the critical mass of attractions near Gallery Place and possibly do more to animate the area than retail space would have done. Mr. Fondersmith also stated that the proposed museum is important in terms of the downtown plan concept.
13. The Commission concurs with the applicant and OP that the requested modification is of little or no consequence to the design of the approved PUD because the proposed modification is not a significant change in the amenity package. The retail component of the PUD consists of only two percent (2%) of the overall project. Like the required retail space, an interactive science museum will accomplish the goals of attracting visitors to the area, helping animate the building's E Street frontage and ensuring activity behind the facades of the preserved building sections.
14. Approving the application is not inconsistent with the intent of 11 DCMR, §§ 2409.9 and 3030, which together authorize the Zoning Commission to approve minor modifications and technical corrections to an approved PUD that cannot be approved by the Zoning Administrator.
15. The Zoning Commission further believes that its decision to approve the modification is in the best interests of the District of Columbia and is consistent with the intent and purpose

of the Zone plan as embodied in the Zoning Regulations and the Zoning Act because the proposed museum will support the downtown plan concept. The interactive science museum will add to the number of attractions that connect the center of Downtown from Union Station to the White House, provide an additional attraction just off the 7<sup>th</sup> Street corridor and thus will increase the overall drawing power of the area, particularly during non-work hours.

### **CONCLUSIONS OF LAW**

1. Upon consideration of the record in this application, the Zoning Commission concludes that the proposed modification is of little or no consequence to the approved PUD, not inconsistent with the intent of 11 DCMR § 3030, and does not change the intent of the previously approved Zoning Commission Order Nos. 668 and 668-A through 668-G. (Findings of Fact 9, 10, 13)
2. The Zoning Commission further believes that its decision is in the best interests of the District of Columbia and is consistent with the intent and purpose of the Zoning Regulations and the Zoning Act. (Finding of Fact 14, 15)
3. The approval of the minor modification is not inconsistent with the Comprehensive Plan for the National Capital. (Finding of Fact 14)
4. Other than those modest changes specifically mentioned, the requested minor modification will not affect any of the other features of or conditions to the previously approved PUD. The material facts relied on by the Commission in approving the original PUD in Z.C. Order No. 668 have not changed. (Findings of Fact 5, 12)
5. The modification is of such a minor nature that its consideration as a Consent Calendar item without public hearing is appropriate. (Findings of Fact 9, 10, 13-15)
6. There was no opposition to the modification. (Findings of Fact 7, 9, 10)
7. As required by D.C. Official Code § 1-309.10(d)(3)(A) (2001 ed.), the Board has given “great weight” to ANC 6A’s recommendation to approve the requested modification.

### **DECISION**

In consideration of the Findings of Fact and Conclusions of Law set forth in this order, the Zoning Commission for the District of Columbia hereby orders **APPROVAL** of the application for a minor modification of an approved PUD for lots 26 (formerly lots 15-19, 24, 25, and 821-823), 833, and 842 in Square 488, located at 500 5<sup>th</sup> Street, N.W. to allow an interactive science museum as an alternative to all or a portion of the retail requirement of the approved PUD.

The approval of this minor modification is subject to the following guidelines, conditions, and standards:


- (1) Public access to the museum shall be provided directly from the street, not from the lobby of the office building;
- (2) The museum's hours of operation shall be similar to retail hours, including operation beyond the hours of 9 a.m. to 5 p.m. on Monday through Friday, to enhance the vitality of the corridor;
- (3) The museum space must have windows comparable to a retail operation and they must be used for displays and/or visual access to the museum or store space;
- (4) DCPL and the Historic Preservation Review Board shall be given the opportunity to review proposed signage to ensure appropriate design;
- (5) The applicant shall develop a tour/private bus-scheduling system which precludes extended stays of buses on the fronting streets;
- (6) In the event the space in question is not used for the interactive science museum, it shall revert back to retail;
- (7) NAS shall consult with the Office of Planning regarding implementation of conditions 2, 3, 4 and 5; and
- (8) The project shall be constructed either in accordance with Z.C. Order Nos. 668, 668-D, and 668-F or this order (Z.C. Order No. 668-H).

Pursuant to the intent of 11 DCMR § 2409.3, no building permit for the minor PUD modification shall be issued by the Department of Consumer and Regulatory Affairs ("DCRA") until the applicant has recorded a "Notice of Modification" of Zoning Commission Order No. 668 with the land records of the District of Columbia. That Notice of Modification shall include true copies of Zoning Commission Order No. 668 and this order, which the Director of the Office of Zoning has certified. The recordation of the Notice of Certification shall bind the applicant and any successors in title to construct on and use this site in accordance with this order and any amendments thereof.

After recordation of the Notice of Modification, NAS shall promptly file a certified copy of the Notice of Modification with the Office of Zoning for the records of the Zoning Commission.

Vote of the Commission taken at its public meeting on February 11, 2002: **5-0-0**: (John G. Parsons, James H. Hannaham, Carol Mitten, Anthony Hood, and Peter G. May voting to approve).

In accordance with the provisions of 11 DCMR 3028, this Order shall become final and effective upon publication in the D.C. Register; that is on JUL 26 2002.



Carol J. Mitten, Chairperson  
Zoning Commission



Jerrily R. Kress, FAIA, Director,  
Office of Zoning